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20995

7590

03/17/2009

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

SHEKR, CRISTINA O

ART UNIT

PAPER NUMBER

3685

DATE MAILED: 03/17/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,784	07/30/2001	Rodney Perkins	RJENK22.001APC	7506
TITLE OF INVENTION: SECURE DATA TRANSFER SYSTEM				

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$0	\$1510	06/17/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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20995 7590 03/17/2009

**KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614**

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE-FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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09/787,784	07/30/2001	Rodney Perkins	RJENK22.001APC	7506

TITLE OF INVENTION: SECURE DATA TRANSFER SYSTEM

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nonprovisional	NO	\$1510	\$0	\$0	\$1510	06/17/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
SHERR, CRISTINA O	3685	705-071000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/147; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
- 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
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4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			SHEKR, CRISTINA O	
			ART UNIT	PAPER NUMBER
			3685	

DATE MAILED: 03/17/2009

Determination of Patent Term Extension under 35 U.S.C. 154 (b)

(application filed after June 7, 1995 but prior to May 29, 2000)

The Patent Term Extension is 0 day(s). Any patent to issue from the above-identified application will include an indication of the 0 day extension on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

09/787,784

Applicant(s)

PERKINS, RODNEY

Examiner

CRISTINA OWEN SHERR

Art Unit

3685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment, filed 06/30/08.
2. ☒ The allowed claim(s) is/are 9-30.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

CRISTINA OWEN SHERR
Examiner
Art Unit: 3685

1. This Office Action is in response to Applicant's amendment, filed January 9, 2009.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
3. Authorization for this examiner's amendment was given in a telephone interview with John M. Carson, reg. no. 34,303 on March 5, 2009.
4. Claims 9-30 are hereby canceled. Claims 31-50 are newly added as follows:

31. A data transfer system, comprising:

a sender facility, comprising a sender computer system;

a key facility, comprising a key computer system;

a receiver facility, comprising a receiver computer system,

wherein the sender facility further comprises:

a sender computer readable medium in the sender computer system, the sender computer readable medium comprising instructions which, when executed, cause the sender computer system to:

encrypt data, wherein the encrypted data comprises a first encrypted part and a second encrypted part;

generate a third encrypted part by encrypting the first encrypted part;

generate a data block by combining the third encrypted part with the second encrypted part; and

transmit the data block to the receiver facility,

wherein the receiver facility further comprises:

a receiver computer readable medium in the receiver computer system, the receiver computer readable medium comprising instructions which, when executed, cause the receiver computer system to:

receive the data block;

split the data block into the third encrypted part and the second encrypted part;

generate a request for the key facility to recover the first encrypted part by decrypting the third encrypted part, wherein the request comprises the third encrypted part;

transmit the request to the key facility;

receive the first encrypted part from the key facility; and

decrypt the second encrypted part with the first encrypted part,

wherein the key facility further comprises:

a key computer readable medium in the key computer system, the key computer readable medium comprising instructions which, when executed, cause the key computer system to:

receive the request from the receiver facility;

recover the first encrypted part by decrypting the third encrypted part; and

transmit the first encrypted part to the receiver facility.

32. (New) The system of Claim **Error! Reference source not found.**, wherein the instructions of the sender facility, when executed further cause the sender computer system to sign the data block.

33. (New) The system of Claim **Error! Reference source not found.**, wherein the instructions of the sender facility, when executed further cause the sender computer system to transmit the data block to the key facility, and wherein the instructions of the key facility, when executed further cause the key computer system to receive the data block and to forward the data block to the receiver facility.

34. (Currently Amended) The system of Claim 33, wherein the instructions of the key facility, when executed further cause the key computer system to log receipt of the data block.

35. (New) The system of Claim **Error! Reference source not found.**, wherein the instructions of the key facility, when executed further cause the key computer system to log receipt of the third encrypted part.

36. (New) The system of Claim **Error! Reference source not found.**, wherein the instructions of the key facility, when executed further cause the key computer system to log receipt of the request for recovery of the first encrypted part as proof of delivery of the data block to the receiver facility.

37. (New) The system of Claim 36, wherein the instructions of the sender facility, when executed further cause the sender computer system to request proof of delivery information from the key facility.

38. (New) The system of Claim **Error! Reference source not found.**, wherein the key facility is a trusted third party.

39. (New) A method of data transfer, the method comprising:

- by a sender facility computer system, encrypting data, wherein the encrypted data comprises a first encrypted part and a second encrypted part;

- by the sender facility computer system, generating a third encrypted part by encrypting the first encrypted part;

- by the sender facility computer system, generating a data block by combining the third encrypted part with the second encrypted part;

- by the sender facility computer system, transmitting the data block to a receiver facility computer system;

- by the receiver facility computer system, receiving the data block;

- by the receiver facility computer system, splitting the data block into the third encrypted part and the second encrypted part;

- by the receiver facility computer system, transmitting a request for the key facility computer system to recover the first encrypted part by decrypting the third encrypted part, the request comprising the third encrypted part;

by the key facility computer system, recovering the first encrypted part by decrypting the third encrypted part;

by the key facility computer system, transmitting the first encrypted part to the receiver facility computer system; and

by the receiver facility computer system, decrypting the second encrypted part with the first encrypted part.

40. (New) The method of Claim 39, further comprising at the sender facility computer system, signing the data block.

41. (New) The method of Claim 39, further comprising at the sender facility computer system, transmitting the data block to the key facility computer system, and at the key facility computer system, receiving the data block and forwarding the data block to the receiver facility computer system.

42. (New) The method of Claim 41, further comprising, at the key facility computer system, logging receipt of the data block.

43. (New) The method of Claim 39, further comprising at the sender facility computer system, transmitting the data block to the receiver facility computer system, and at the receiver facility computer system, receiving the data block.

44. (New) The method of Claim 43, further comprising, at the key facility computer system, logging receipt of the third encrypted part.

45. (New) The method of Claim 39, further comprising, at the key facility computer system, logging receipt of the request for decryption of the third encrypted part as proof of delivery of the data block to the receiver facility computer system.

46. (New) The method of Claim 45, further comprising, at the sender facility computer system, requesting proof of delivery information from the key facility computer system.

47. (New) The method of Claim 39, wherein the key facility computer system is a trusted third party.

48. (New) A data transfer system comprising:

a sender facility, comprising a sender computer system;

a key facility, comprising a key computer system;

a receiver facility, comprising a receiver computer system,
wherein the sender facility comprises:

a sender computer readable medium in the sender computer system, the sender computer readable medium comprising instructions which, when executed, cause the sender computer system to:

encrypt data, wherein the encrypted data comprises a plurality of encrypted parts, the plurality of encrypted parts comprising at least one first encrypted part and one or more second encrypted parts;

generate a further encrypted part by encrypting the at least one first encrypted part;

generate a data block by combining the further encrypted part and the second encrypted parts;

sign the data block;

transmit the data block to the key facility; and

request proof of delivery information from the key facility,

wherein the receiver facility comprises:

a receiver computer readable medium in the receiver computer system, the receiver computer readable medium comprising instructions which, when executed, cause the receiver computer system to:

receive the data block from the key facility;

generate a request for the key facility to recover the at least one first encrypted part by decrypting the further encrypted part;

transmit the request to the key facility;

receive the at least one first encrypted part from the key facility; and

decrypt the one or more second encrypted parts with the at least one first encrypted part,

wherein the key facility further comprises:

a key computer readable medium in the key computer system, the key computer readable medium comprising instructions which, when executed, cause the key computer system to:

- receive the data block from the sender facility;
- forward the data block to the receiver facility;
- log receipt of the data block from the sender facility;
- log receipt of the decryption request from the receiver facility as proof of delivery of the data block to the receiver facility;
- recover the at least one first encrypted part by decrypting the further encrypted part; and
- transmit the recovered at least one first encrypted part to the receiver facility.

49.(New) A data transfer system, comprising:

- a sender facility, comprising a sender computer system;
- a key facility, comprising a key computer system;
- a receiver facility, comprising a receiver computer system,

wherein the sender facility further comprises:

- a sender computer readable medium in the sender computer system, the sender computer readable medium comprising instructions which, when executed, cause the sender computer system to:

- encrypt data, wherein the encrypted data comprises a plurality of encrypted parts, the plurality of encrypted parts comprising at least one first encrypted part and one or more second encrypted parts;

- produce a further encrypted part by encrypting the at least one first encrypted part;

- produce a data block by combining the further encrypted part and the second encrypted parts;

- sign the data block; and

- transmit the data block to the receiver facility,

wherein the receiver facility further comprises:

- a receiver computer readable medium in the receiver computer system, the receiver computer readable medium comprising instructions which, when executed, cause the receiver computer system to:

- receive the data block from the sender facility;
- generate a request for the key facility to recover the at least one first encrypted part by decrypting the further encrypted part, wherein the request comprises the further encrypted part;
- transmit the request to the key facility;
- receive the at least one first encrypted part from the key facility; and
- decrypt one or more second encrypted parts with at the at least one first encrypted part,

wherein the key facility further comprises:

- a key computer readable medium in the key computer system, the key computer readable medium comprising instructions which, when executed, cause the key computer system to:
 - log receipt of the further encrypted part;
 - recover the at least one first encrypted part by decrypting the further encrypted part; and
 - transmit the first encrypted part to the receiver facility.

50.(New) A method of transferring data, comprising:

- by a sender facility computer system, encrypting data, wherein the encrypted data comprises a plurality of encrypted parts, the plurality of encrypted parts comprising at least one first encrypted part and one or more second encrypted parts;
- by the sender facility computer system, generating a further encrypted part by encrypting the at least one first encrypted part;
- by the sender facility computer system, producing a data block by combining the further encrypted part and a second encrypted part;
- by the sender facility computer system, signing the data block;
- by the sender facility computer system, sending the data block to a key facility computer system;
- by the key facility computer system, receiving the data block from the sender facility computer system;

by the key facility computer system, forwarding the data block to a receiver facility computer system;

by the key facility computer system, logging receipt of the data block from the sender facility computer system;

by the receiver facility computer system, receiving the data block from the key facility computer system;

by the receiver facility computer system, generating a request for the key facility computer system to recover the first encrypted part by decrypting the further encrypted part;

by the receiver facility computer system, transmitting the request to the key facility computer system;

by the key facility computer system, logging receipt of the request from the receiver facility computer system as proof of delivery of the data block to the receiver facility computer system;

by the key facility computer system, recovering the first encrypted part by decrypting the further encrypted part;

by the key facility computer system, sending the first encrypted part to the receiver facility computer system;

by the key facility computer system, decrypting the one or more second encrypted parts with the first encrypted part; and

by the sender facility computer system, requesting proof of delivery information from the key facility computer system.

Reasons for Allowance

The following is the Examiner's statement of reasons for allowance:

4. Regarding the claimed terms, the Examiner notes that a "general term must be understood in the context in which the inventor presents it." *In re Glaug* 283 F.3d 1335,

1340, 62 USPQ2d 1151, 1154 (Fed. Cir. 2002). Therefore the Examiner must interpret the claimed terms as found on pages 1-24 of the specification. Clearly almost all the general terms in the claims may have multiple meanings. So where a claim term "is susceptible to various meanings . . . the inventor's lexicography must prevail" *Id.* Using these definitions for the claims, the claimed invention was not reasonably found in the prior art.

5. Regarding the independent claims 31, 39, 48, 49, and 50, the primary reference, Ginter, discloses as previously discussed. Ginter, however, does not disclose that the receiver facility receives the encrypted data from the key facility and then requests that the key facility decrypt the data thus returning the data to the key facility. Moreover, the missing elements of Ginter are not likely found in a reasonable number of reference(s).

6. Yet even if the missing claimed elements were found in a reasonable number of references, a person of ordinary skill in the art at the time the invention was made would not have been motivated to include these missing elements in an embodiment of Ginter, since normally one would not seek to return the data to where it came from.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CRISTINA OWEN SHERR whose telephone number is

(571)272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin L. Hewitt, II can be reached on (571)272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cristina Owen Sherr
Patent Examiner, AU 3685

/Calvin L Hewitt II/

Supervisory Patent Examiner, Art Unit 3685